From:	Steve Gordon
To:	mdove@fec.gov
Subject:	Draft AO 2007-31
Date:	12/13/2007 03:06 AM

Dear Secretary Dove and the Commission:

Please add my voice in support of the expressions below. I use ActBlue as a conduit for making small contributions to candidates of interest. Every dollar is specified to be directed to my chosen candidates -- ActBlue has no control or say in where my donations are directed. As such, the spirit of campaign finance law should treat these donations as if they were made directly to those candidates.

Sincerely,

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To the Commission:

On behalf of my clients Markos Moulitsas Zúniga (DailyKos.com) and BlogPAC, a federal political action committee dedicated to supporting netroots-friendly candidates and building an online progressive infrastructure, I wanted to offer these brief comments in support of your draft advisory opinions regarding ActBlue.

Draft AO 2007-31: Judge Learned Hand once wrote that "There is no surer way to misread any document than to read it literally ... As nearly as we can, we must put ourselves in the place of those who uttered the words, and try to divine how they would have dealt with the unforeseen situation; and, although their words are by far the most decisive evidence of what they would have done, they are by no means final." This draft opinion, requested by the Edwards campaign, surely has made the same error cautioned against by Judge Hand, privileging the cold text of 11 CFR 9034.3(f) over any reasonable interpretation of its intent.

Obviously, while ActBlue is a "political committee" in the strictest sense of

the term, in reality it does not act as such. ActBlue is a conduit for individual contributor preferences, to track and aggregate small-dollar contributors. It asserts no control over the recipients of its funds; the site's only criteria is that the recipient be a Democrat. It fulfills FECA's anticorruption goals by reporting contributors' names, addresses, employers, and occupations to campaign, which in turn provide that information to the Commission as is legally required.

This is a clear a case as any of reformers accomplishing via technology what law alone cannot do: leveling the playing field between moneyed interests and small-dollar contributors by allowing anyone to become a "bundler", and to allow such contributors to have visual, real-time confirmation of their impact upon the process. In the same way that the public financing system itself is designed to encourage and magnify the impact of small-dollar contributions, ActBlue facilitates those contributions occurring in the first place.

The regulation in question, 11 CFR 9034.3(f), was implemented at a time when tracking of individual contribution was much more difficult than it is today, and there is no danger of ActBlue becoming a conduit for above-limit contributions given the technological advances which allow for heightened transparency and scrutiny of all contributions.

There is no conceivable purpose for campaign finance law that would be served by treating the ActBlue contributions as not-matchable under the law, as ActBlue presents none of the concerns articulated by the groups otherwise covered by 11 CFR 9034.3(f), and for these purposes is more akin to a credit card processor than any other entity. This is technology being used to encourage small-dollar contributions which are at the heart of reforming our campaign system, and to treat it as "dirty money" seems ludicrous. Nothing distinguishes these from any other small-dollar contributions other than the website through which they were sent. The Commission should reject the draft opinion and allow the Edwards campaign to seek matching funds for contributions transmitted by ActBlue.

Draft AO 2007-27: Regarding ActBlue's desire to solicit contributions for restricted SSFs, we urge the Commission to adopt Draft A, the more permissive version. Under Program 1, grassroots donors should be able to contribute to PACs whose objectives they support, and allowing ActBlue to serve as a conduit for such contributions does not implicate any of the

policy concerns underlying the restrictions regarding SSFs. The same source prohibitions and contribution amount limitations will be enforced, and no SSF funds will be expended outside the class.

There is no reason to prevent grassroots donors from contributing to PACs whose objectives they endorse. Based on our experience with the netroots community, we are confident that grassroots donors would use ActBlue's Program 1 to support such groups, and that doing so serves the best interests of a healthy political process.

Conclusion: Over the past few years, this Commission has shown tremendous sensitivity to the ways in which technology has transformed the terrain for campaign finance regulation, and has consistently taken an approach which encourages innovative efforts to encourage grassroots political activity through the Internet. For those efforts to continue, we urge the Commission to reject Draft Opinion 2007-31 and approve Draft A for Opinion 2007-27.

Respectfully,
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